

Before the
Federal Communications Commission
Washington, D.C. 20554

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|----------------------------------|---|----------|---------------------|
| In the Matter of |) | CUID No. | MO0024 (Warrenburg) |
| |) | | |
| Falcon Cable Holding Group, Inc. |) | | |
| |) | | |
| Refund Plan |) | | |

ORDER

Adopted: March 20, 2002

Released: March 22, 2002

By the Acting Chief, Financial Analysis and Compliance Division, Cable Services Bureau:

1. In this Order we consider the refund plan filed on February 24, 1998 by the above-referenced operator ("Operator") in the above-referenced community pursuant to our Order, DA 98-104¹ ("Refund Order").² Our review of Operator's refund plan³ reveals that the refund plan does not fulfill the requirements of the Refund Order. The methodology used by Operator resulted in a calculation of negative refund liability for time periods in which Operator was overcharging for its cable programming services tier. In addition, in our Prior Order, we indicated that Operator was charging \$7.18 for the CPST, which we calculated by reducing Operator's \$7.40 CPST rate per its rate card by the three percent franchise fee that was included in that rate. In its refund plan, Operator reduced the \$7.18 by an additional three percent. Therefore, we calculated Operator's refund liability as follows: For the period from August 30, 1994 (the date of the first valid complaint) through September 30, 1994, we calculated an overcharge of \$3.24 per month per subscriber and for the period October 1, 1994 through November 14, 1994,⁴ we calculated an overcharge of \$2.69 per month per subscriber, in accordance with the Refund Order. Our total calculation, including three percent franchise fees and interest through April 30, 2002, equals \$59,058.93. We will order Operator to refund this amount, plus any additional interest accrued to the date of refund, to its CPST subscribers within 60 days of the release of this Order.⁵

¹ See Falcon Cable Holding Group, Inc. DA 98-104, 13 FCC Rcd 934 (1998).

² The Refund Order required Operator to determine the overcharges to cable programming service tier ("CPST") subscribers for the period stated in the Refund Order and file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount determined (including franchise fees and interest), describing the calculation thereof, and describing its plan to implement the refund within 60 days of Commission approval of the plan.

³ Operator calculated a total refund liability of \$32,405.68.

⁴ Our review of the record indicates that Operator justified its CPST rate effective November 15, 1994.

⁵ In the cover letter accompanying its refund plan, Operator indicated that it had already refunded a portion of the refund total to subscribers. To the extent Operator has already refunded a portion of its refund liability to subscribers, it may deduct that amount plus any interest associated with that amount from the total calculation herein.

2. Accordingly, IT IS ORDERED, that Operator's refund plan IS NOT APPROVED.

3. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator shall refund to subscribers in the franchise area referenced above the total amount of \$59,058.93, less any amount previously refunded, plus interest accruing from April 30, 2002 to the date of refund, within 60 days of the release of this Order.

4. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. § 0.321 and § 76.962, that Operator file a certificate of compliance with the Chief, Cable Services Bureau, within 90 days of the release of this Order certifying its compliance with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen F. Costello, Acting Chief
Financial Analysis and Compliance Division
Cable Services Bureau